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New Justice Assigned to Manhattan Commercial Division Amid \$300M Judicial Budget Cut

Justice Robert Reed, the newly assigned Commercial Division judge, was elected a Supreme Court Justice in 2016 and has been handling commercial matters since he was named an Acting Supreme Court Justice in 2014.

By Jason Grant | October 06, 2020



New York Supreme Court, Commercial Division, at 60 Centre Street

New York Supreme Court Justice Robert Reed has been appointed to the Manhattan Commercial Division, where he will fill a currently open spot on the division's bench and where his appointment appears to somewhat help ease concerns about two forthcoming retirements (<https://www.law.com/newyorklawjournal/2020/10/02/two-manhattan-commercial-division-justices-to-retire-as-judicial-budget-cut-takes-hold/>) from the Commercial Division bench amid a statewide \$300 million judicial budget cut.

In addition, on Tuesday afternoon, Lucian Chalfen, chief spokesman for the Office of Court Administration, which administers the state's court system, said in an interview with the New York Law Journal that "hopefully, some time in the near future, we'll be able to pull people over [from the state civil Supreme Court bench] to fill the other positions." Those positions will open up in the Manhattan Commercial Division at the end of this year and around March of next year as sitting Commercial Division Justices Marcy Friedman and O. Peter Sherwood retire.



Robert R. Reed

Reed "is there, and we are able to fill a position" on the Commercial Division, said Chalfen, who added that Reed, a civil Supreme Court justice who's been handling a range of commercial cases since 2014, will begin in his new post "in the coming weeks."

Chalfen said that while last week's announcement of a 10% slash to the judiciary budget (<https://www.law.com/newyorklawjournal/2020/09/29/cuomo-panning-to-cut-about-300-million-from-judiciary-budget-judge-marks-says-in-memo/>), and the hiring freeze that came with it, is a concern, Reed is being moved over to the Commercial Division, meaning that no new salary is being added to the judiciary budget. He explained, though, that Reed's reassignment means the civil Supreme Court bench will, at least for a time, have one less judge on it.

He also indicated that when Friedman and Sherwood retire, it is likely other qualified judges may be able to be reassigned into their open posts, though "it is too early to say" what may happen.

The Commercial Division is a vital and specialized arm of the state court system, especially in Manhattan where the group of sitting justices are known for handling Wall Street-based and other complex business and finance-based litigation sometimes involving

hundreds of millions of dollars. In recent years, any case assigned to the Manhattan Commercial Division must have a minimum threshold amount at issue of \$500,000. The Manhattan division's docket is known as large and constantly added to (<https://www.law.com/newyorklawjournal/almID/1202775194996/an-insiders-view-on-case-volume-efficiency-and-commercial-division-reforms/>), and backlogs can occur as some cases can take many years to litigate.

On Sept. 29, chief state Administrative Judge Lawrence Marks issued a memo to the court system laying out the judicial hiring freeze and other implications of Cuomo suddenly slashing the judiciary budget by \$300 million due to "the economic fallout of the coronavirus pandemic" leading to "enormous pressures on the State budget."

Just a couple days later, news broke that Friedman and Sherwood had announced their retirements from the Manhattan Commercial Division bench—with Friedman to step down at the end of 2020 and Sherwood around the end of March 2021. Moreover, Justice Saliann Scarpulla moved last August from the Manhattan Commercial Division court to the Appellate Division, First Department court. With the budget cut and hiring freeze newly in place, concerns grew about the functioning of the Commercial Division, which typically has eight justices handling its caseload.

In an email sent Monday by state Supreme Court Administrative Judge Deborah Kaplan to Reed's colleagues on the Supreme Court bench announcing his assignment to the Commercial Division, Kaplan said she was "delighted to inform" them of Reed's selection.

A graduate as a younger man from Harvard Law School and before that Stanford University, Kaplan noted that Reed has been handling commercial matters since 2014, and that “he has presided over numerous trials that were commercial in nature, including trials referred to him from the Commercial Division inventory.”

She also said that before becoming a judge in 2007, when Reed was elected to the New York City Civil Court, he’d practiced law for 23 years.

“During that time,” wrote Kaplan, “he represented businesses, financial and academic institutions, public authorities, not-for-profit organizations and individuals in all aspects of state and federal litigation.”

“The disputes he handled were complex, including commercial, employment, employment discrimination and sexual harassment, employee noncompete issues, defamation, real property, intellectual property, product liability, class action, shareholder and investor questions, international, banking, consumer protection and bankruptcy litigation,” she added.

Reed could not be reached for comment Tuesday.

In an email and phone interview Tuesday, Mark Zauderer, a member of the state’s Commercial Division Advisory Council and a partner at Ganfer Shore Leeds & Zauderer, pointed out that Reed appears to be one of the increasing number of Supreme Court civil judges who’ve been taking on complicated commercial cases that prepare them for a prestigious Commercial Division post.

Zauderer said that several years ago the minimum threshold for a Commercial Division matter jumped from \$150,000 to \$500,000, and that left a new group of commercial cases that fell just under \$500,000 but that were often still complex. Justices who aim to get a Commercial Division assignment, often wanting to handle the division’s important cases and perhaps believing a Commercial Division post will boost their chances for an eventual Appellate Division appointment, have been corralling the cases below the \$500,000 threshold, said Zauderer.

“I expect that with the retirement and promotion of Commercial Division judges, the division will see more high-quality appointments such as this one” of Reed, he said. “Several years ago, the monetary threshold for entry into the division in Manhattan was raised to \$500 thousand. This has created an opportunity for talented judges to tackle the many commercial cases that are complex but under the qualifying dollar amount, allowing them eventually to join the Commercial Division fully adept at handling its heavy caseload.”

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